



#122859

Art Unit 3618

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: Bridget Avery
Applicants: WILLIAM VANDERMINDEN
Serial No: 09/126,194
Filed: July 30, 1998
TITLE: BAR CART

Assistant Commissioner for Patents
Washington, D.C. 20231

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Commissioner for Patents
Washington, D.C. 20231

APPEAL BRIEF

Sir:

This is an appeal from the Final Rejection dated August 7, 2001 of claims 1 to 3, 9, 13, 15, 18 and 24.

This Appeal Brief is being filed in triplicate.

A check in the amount of \$160.00 (small entity) is enclosed. Should any additional fees be required, please charge such to Deposit Account 03-0678.

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REAL PARTY IN INTEREST

The real party in interest is the assignee of record, Telescope Casual Furniture Company.

RELATED APPEALS

There are no related appeals and/or interferences.

STATUS OF CLAIMS

Claims 1 to 3, 9, 13, 15, 18 and 24 have been rejected.

Claims 8, 12, 14 and 22 have been indicated as containing allowable subject matter.

Claims 4 to 8, 10 to 12, 14, 16, 17 and 19 to 23 have been objected to.

STATUS OF AMENDMENTS

An Amendment after Final Rejection filed October 25, 2001 has not been entered.

SUMMARY OF INVENTION

The invention is directed to a knock-down portable bar cart.

The bar cart 10 is constructed, as indicated in Figs. 1 and 5, of a body frame 11, a pair of leg frames 12, 13 and a table top 14. (Page 4, lines 15 to 17). In addition, a shelf 15 is removably mounted in the body frame 11 and a pair of wheels 16 are mounted on one leg frame 13.

The body frame 11 is a box-shaped skeletal structure formed by four vertically disposed rectangular frames 17, 18, 19.

Spacers 28 are secured between each pair of adjacent frames 17, 18, 19 and are received in slots 35 of vertically disposed plates 34 on the leg frames 12, 13 in order to connect the body frame 11 to the respective leg frames 12, 13. (Page 6, lines 6 to 20).

Each leg frame 12, 13 has outwardly disposed arms 38, 38' on which the table top 14 rests. (Page 7, lines 7-8). The arms 38' on one side are longer than the arms 38 on the other side so that the table top 14 forms a shelf to one side of the bar cart 10 to allow a person to stand close to the table top without stepping on the bar cart. This also permits a bar stool to be placed adjacent to the table top 14 for seating purposes. (Page 7, lines 7-15).

The table top 14 is provided with a peripheral edge 39 of U-shaped cross section to slidably receive an end of each arm 38' of the leg frames 12-13 (Page 7, lines 16-19; Fig. 4).

In order to assemble the bar cart 10, the body frame 11 is first connected to one leg frame 12, 13 and then to the other leg frame 12,13. For example, the spacers 29 adjacent to the end frame 18 are first inserted into the slots 35 of the plates 34 on one leg frame. Next, the spacers 29 on the opposite end frame 19 are inserted into the slots 35 of the plates 34 on the opposite leg frame. The body frame 11 is then pressed downwardly relative to the leg frames 12, 13 in order to secure a firm connection between the spacers 29 and the plates 34. Next, the wheels 16 are mounted on the axle 36. Finally, the table top 14 is mounted on the arms 38 of the leg frames 12,13 to lock the frames 11, 12, 13 together in a rigid manner. (Page 8, lines 8 to 18)

Because of the inherent rigidity of the parallelogram arrangement of each side frame 17 and end frame 18,19, the body frame 11 is of particularly rigid construction to resist bending and twisting. Further, the height of the body frame 11 further enhances the dimensional stability of the bar cart 10. (Page 9, lines 6 to 9).

A fabric strip 41 is disposed peripherally about the leg frames 12, 13 and the shelf side of the body frame 11 to hide items placed on the shelf 15 while having spaced apart ends to permit access through one side of the bar cart 10 to the items on the shelf 15.

The bar cart can be readily assembled without the need for tools. Likewise, the bar cart can be disassembled into the individual components without the need of tools for storage within a minimum of space.

ISSUES

I. Whether claims 1 to 17 are indefinite.

II. Whether claim 1 is anticipated by Harrah under the provisions of 35 U.S.C. 102.

III. Whether claim 1 is anticipated by Berthier under the provisions of 35 U.S.C. 102.

IV. Whether claim 1 is anticipated by Holtz under the provisions of 35 U.S.C. 102.

V. Whether claim 1 is anticipated by McClellan under the provisions of 35 U.S.C. 102.

VI. Whether claim 2 is anticipated by Harrah under the provisions of 35 U.S.C. 102.

VII. Whether claim 2 is anticipated by Berthier under the provisions of 35 U.S.C. 102.

VIII. Whether claim 2 is anticipated by Holtz under the provisions of 35 U.S.C. 102.

IX. Whether claim 2 is anticipated by McClellan under the provisions of 35 U.S.C. 102.

X. Whether claim 13 is anticipated by McClellan.

XI. Whether claim 18 is anticipated by Harrah under the provisions of 35 U.S.C. 102.

XII. Whether claim 18 is anticipated by Berthier under the provisions of 35 U.S.C. 102.

XIII. Whether claim 18 is anticipated by Holtz under the provisions of 35 U.S.C. 102.

XIV. Whether claim 18 is anticipated by McClellan under the provisions of 35 U.S.C. 102.

XV. Whether claim 4 is unpatentable over Berthier in view of Carille under the provisions of 35 U.S.C. 103.

XVI. Whether claims 4 and 20 are unpatentable over Holtz in view of Carille under the provisions of 35 U.S.C. 103.

XVII. Whether claims 5, 10 and 19 are unpatentable over Holtz under the provisions of 35 U.S.C. 103.

XVIII. Whether claims 7, 11, 13 and 21 are unpatentable over Holtz in view of Burnett under the provisions of 35 U.S.C. 103.

XIX. Whether claims 5, 10, 11, 15-17, 19, 21 and 24 are unpatentable over McClellan under the provisions of 35 U.S.C. 103.

XX. Whether claims 9 and 23 are unpatentable over McClelland in view of Fuller under the provisions of 35 U.S.C. 103.

GROUPING OF CLAIMS

Claims 1 and 9 stand or fall together.

Claims 2 and 3 stand or fall together.

Claim 4 stands alone.

Claims 5, 6 and 10 stand or fall together.

Claims 7, 8, 11, 12, 13 and 14 stand or fall together.

Claims 15, 16 and 17 stand or fall together.

Claim 18 stands alone

Claim 19 stands alone.

Claim 20 stands alone.

Claims 21 and 22 stand or fall together.

Claim 24 stands alone.

ARGUMENTS

A brief review of the procedural history of this application is believed to be in order.

A first Office Action, dated November 24, 1999 cited 21 references of record, rejected several claims and indicated that several claims were allowable. A response was made to the rejections in that Office Action without amendment of any claims.

A second Office Action dated March 1, 2000 withdrew all previous rejections, cited 18 new references of record, rejected several claims on several grounds of rejection and indicated several claims as containing allowable subject matter. A response was made to the rejections in that Office Action without amendment of the claims.

A third Office Action, dated August 15, 2000, cited 12 new references of record, rejected several claims over one reference and indicated that several claims contained allowable subject matter. This rejection was made Final. A response was made to the rejections in that Office Action with an amendment of claim 1.

A fourth Office Action dated April 26, 2001, withdrew the Final Rejection, rejected claim 1 as being indefinite for the first time, cited 12 new references of record, set forth new grounds of rejection of several claims and indicated that several claims contained allowable subject matter. A response was made to the rejections in that Office Action without amending the claims.

A fifth Office Action dated August 7, 2001 repeated the rejections of the prior Office Action and the rejections made Final. This Appeal is from that Final Rejection.

An advisory action dated November 1, 2001 indicates that the rejected claims are claims 1 to 3, 9, 13, 15, 18 and 24 and that the remaining claims are objected to. The record does not show the "objections". It is not clear if the objected to claims are considered by the Examiner to contain allowable subject matter.

**I. Whether there is antecedent basis for
"said leg frames" in claim 1 to obviate
a rejection pursuant to the provisions
of 35 U.S.C. 112**

Claim 1, line 3 recites "a pair of leg frames". Further, claim 1 recites "each leg frame being releasably connected to said body frame at an opposite side from the other of said leg frames. . . ". The plain meaning the language of claim 1 is believed to be in strict conformance with the provisions of 35 U.S.C. 112.

The term "said leg frames" in line 4 clearly refers back to the "pair of leg frames" recited in line 3.

**II. Whether Claim 1 Is Anticipated
by Harrah Under the Provisions of
35 U.S.C 102.**

Harrah describes a wheeled tray comprised of a supporting frame consisting of two pairs of bars 1,2 crossed at their centers and spaced by a cross rod 3 which forms a pivot for the bars. Hinged plates 4,5 are provided with recesses 6 into which the bars 1,2 fit to prevent a creeling motion between the bars. In addition, rods 12, 13 are connected across the upper ends of the bars 1,2. A tray 19 has arms 20 on one end which are pivoted to one cross rod 12 and arms 21 at the opposite end which are detachably engaged with the rod 13. In addition, a spring clamp 24 secures the tray 19 to the rod 13 to lock the tray 19 in position.

Claim 1 is directed to a knock-down portable bar cart. The wheeled tray of Harrah is not a bar cart.

Further, claim 1 requires the knock-down portable bar cart to have (1) a body frame; (2) a pair leg frames; and (3) a table top releasably connected to and across said leg frames in vertically spaced relation to said body frame". Harrah is void of any such structure or teaching.

There is no "body frame" in Harrah. The Examiner considers the two parallel rods 12, 13 and four upstanding arms 20, 21 of Harrah to constitute a "body frame" as recited in claim 1. By themselves, the two rods 12, 13 and arms 20, 21 do not form a frame. Instead, these six individual components must be connected to other components of the wheeled tray in order to have any viability.

Whereas the crossed pairs of bars 1,2 and cross rods 3,10,12,13 of Harrah may constitute a "leg frame", the tray 19 is not releasably connected to the cross rod 12 via the arms 20. Instead, the tray 19 has arms 20 on one end which are pivoted to one cross rod 12 to fixedly connected the tray 19 to the cross rod 20.

Still further, claim 1 requires each leg frame to be "releasably connected to said body frame . . . ". Harrah is void of any such structure. Specifically, the

supporting frame 1,2,3,10,12,13 of Harrah is only connected to the tray 19 and not to any other structure.

The Examiner further considers the tray 19 of Harrah to be "connected to and across said leg frame" while also being "in vertically spaced relation to said body frame". As can be seen in Figs. 1 and 2 of Harrah, the tray 19 is connected to the two bars 1,2 via the vertically depending arms 20, 21 and cross rods 12, 13. The tray 19 is not in vertically spaced relation to the alleged "body frame" which the Examiner considers to be composed of the rods 12, 13 and arms 20, 21.

For the above reasons, a rejection of claim 1 as being anticipated by Harrah is not warranted pursuant to the provisions of 35 U.S.C. 102.

**III. Whether Claim 1 is Anticipated by
Berthier Under the Provisions of 35
U.S.C. 102**

Berthier is directed to a folding tea trolley. As such, Berthier is not a portable bar cart.

The tea trolley is formed of a front rectangular frame 1 and a rear U-shaped frame 2. The rear frame 2 is articulated on the front frame 1 by two flat metal parts 9 (see Fig. 2), each penetrating partly into a hole 10 formed in each longitudinal upright of the front frame 1 and fixed in this position by a screw 11. The remaining portion of each part 9 extends into a slot 12 formed in the upper part of the upright of the rear frame 2 and in which it is traversed by a pivot 13 (column 2, lines 41 to 47). As shown in Figs. 1 and 2, the upper ends of the uprights 14 of the front frame 1 extend above and beyond the top of the rear frame 2 and support a cross member forming a handle.

A lower tray 4 is pivoted to the front rectangular frame 1 via pivots 16 and is articulated to the rear frame 2 via parts 9c and a longitudinal groove 15 formed in the rear frame 2. The parts 9c appear to project from the lower tray 4 to slide within the grooves 15 of the rear frame 2.

The Examiner considers the lower tray 4 of Berthier to be a "body frame". Further, the Examiner considers the frames 1,2 to be "releasably connected to said body frame at an opposite side from the other . . .". Note, however, that the frames 1,2 are connected on the same side of the tray 4 and are not connected to opposite sides of the tray 4. Further, the lower tray 4 appears to be permanently connected to the front frame 1 via the pivot 16. That is, the front frame is not "releasably connected" to the bottom tray 4. Also, the bottom tray 4 is free to slide within the grooves 15 of the rear frame 2. There is no releasable connection therebetween.

Claim 1 further requires a "table top releasably connected to said leg frames . . .". The Examiner considers the upper tray 3 and panel 7 thereof to be a table top. Issue has been taken in this respect. By definition, the upper tray 3 of Berthier is not a "table top". The term "table" is defined in Webster's New Collegiate Dictionary as follows:

Table 1: tablet. . . .3a: a piece of furniture consisting of a smooth flat slab fixed on legs.

Further, the upper tray 4 of Berthier is not "releasably connected" to the leg frames 1,2. Instead, the upper tray 2 is fixedly connected to the frames 1,2 by parts 9a and 9b.

Still further, the upper tray 3 is does not lie across the frames 1,2 but is secured between the frames 1,2.

**IV. Whether Claim 1 is Anticipated
by Holtz Under the Provisions of
35 U.S.C. 102.**

Holtz is directed to a collapsible serving cart constructed of a pair of U-shaped frame members 10,12 that are overlapped and pivotally interconnected by pivot bolts 14. In addition, a pair of table frames 18,20 are supported by cross bars 22,24,26,28 that are welded to the frame members 10,12.

The Examiner considers Holtz to have a pair of leg frames 10, 12. However, as can be seen in Fig. 1, the leg frame 10 is U-shaped and extends from one side of the table frames 18, 20 to the other side. Likewise, the second leg frame 12 is U-shaped and extends to opposite sides of the table frames 18, 20. Accordingly, each leg frame 10 of Holtz is connected to both sides of the alleged body frame 20. That is to say, each leg frame of Holtz is not connected on an opposite side of the "body frame" from the other leg frame as required by claim 1.

Claim 1 further requires a table top to be connected to and across the leg frame. As shown in Fig. 1 of Holtz, the upper table frame 18 is not connected across the leg frame 10, 11. Accordingly, a rejection of claim 1 as being anticipated by Holtz is not warranted pursuant to the provisions of 35 U.S.C. 102.

**V. Whether Claim 1 is Anticipated
by McClellan Under the Provisions of
35 U.S.C. 102.**

McClellan is directed to a knock-down table having a table top member 20, a pair of channel members 24 secured to the lower surface of the table top member 20 and pair of supporting means 42,43 of U-shape.

McClellan is void of any "body frame".

The Examiner considers the pair of channel members 24 shown in Fig. 1 to constitute a skeletal body frame. Issue has been taken in this respect. Of themselves, the two channel members 24 do not constitute a frame particularly since the channel members 24 are not connected to each other.

Further, claim 1 requires a table top to be "releasably connected to and across said leg frames in vertically spaced relation to said body frame". McClellan describes the top member 20 as having the channel members 24 secured to the bottom surface thereof. Thus, the top member 20 is not in vertically spaced relation to the channel members 24.

**VI. Whether Claim 2 is Anticipated
by Harrah Under the Provisions of
35 U.S.C. 102.**

Claim 2 depends from claim 1 and further requires the body frame to be of "rectangular box-shaped skeletal structure". Clearly, the rods 12, 13 and arms 20, 21 of Harrah by themselves do not define a skeletal structure or a box-shaped skeletal structure or a rectangular box-like shape skeletal structure. Accordingly, a rejection of claim 2 as being anticipated by Harrah is not warranted pursuant to the provisions of 35 U.S.C. 102.

**VII. Whether Claim 2 is Anticipated
by Berthier Under the Provisions of
35 U.S.C. 102.**

As noted above, claim 2 requires the body frame to be of "box-shaped skeletal structure". The bottom tray 4 shown in Fig. 2 in Berthier is a simple rectangular frame and is not "box-shaped".

Note is made that the term "box" is defined in Webster's New Collegiate Dictionary as follows:

Box 1a: a rigid typically rectangular receptacle
often with a cover. b: something having a flat bottom
and four upright sides. . .

The bottom tray 4 in Berthier does not conform with this definition. Accordingly, a rejection of claim 2 as being anticipated by Berthier is not warranted pursuant to the provisions of 35 U.S.C. 102.

**VIII. Whether Claim 2 is Anticipated
by Holtz Under the Provisions of
35 U.S.C. 102.**

The bottom table frame 20 of Holtz is constructed of a pair of rectangular wire frames 48,50 that are united in parallel spaced relation by balls 52 welded therebetween (column 2, lines 10 to 15). This table frame 20 is not of box shape

as the term "box" is defined above. Accordingly, a rejection of claim 2 as being anticipated by Holtz is not warranted pursuant to the provisions of 35 U.S.C. 102.

**IX. Whether Claim 2 is Anticipated
by McClellan Under the Provisions of
35 U.S.C. 102.**

The pair of parallel channel members 24 of McClellan do not constitute a "rectangular box-shaped skeletal structure". Accordingly, a rejection of claim 2 as being anticipated by McClellan is not warranted pursuant to the provisions of 35 U.S.C. 102.

**X. Whether Claim 2 is Anticipated
by McClellan Under the Provisions of
35 U.S.C. 102.**

Claim 13 requires each leg frame to have a pair of horizontal outwardly disposed arms and that the table top rest on the arms. McClellan is void of such a structure. Specifically, the table top 20 of McClellan rests directly on the channel members 24 and not on any part of the leg assemblies 42, 43. Accordingly, a rejection of claim 13 as being anticipated by McClellan is not warranted pursuant to the provisions of 35 U.S.C. 102.

**XI. Whether Claim 18 is Anticipated
by Harrah Under the Provisions of
35 U.S.C. 102.**

Claim 18 is directed to a bar cart whereas Harrah is directed to a wheeled tray.

Claim 18 further requires the bar cart to have a "body frame of box-shaped skeletal structure". As noted above with respect to claim 2, the rods 12,13 and arms 20, 21 of Harrah do not constitute a box-shape skeletal structure.

Claim 18 further requires "connecting means integrated in said body frame and each leg frame for releasably connecting each leg frame to said body frame".

Harrah does not describe or teach such a structure. Instead, the leg frames 1,2 of Harrah are mounted on cross rods 12,13 and are held in place by nuts threaded onto the ends of the rods 12,13 (see Fig. 1). These nuts are not "integrated" in the body frame or in the leg frame. That is to say, the nuts are separate from the rods 12,13 and separate from the leg frames. Further, the nuts are not "integrated" in the body frame alleged by the Examiner to be constituted by the rods 12,13 and arms 20,21 of Harrah.

Claim 18 further requires a table top to be "releasably connected" to and across the leg frames "in vertically spaced relation to said body frame". The tray 19 of Harrah is not releasably connected to the cross rod 12 and is not in "vertically spaced relation" to the cross rods 12,13 and arms 20,21.

In view of the above differences between claim 18 and Harrah, a rejection of claim 18 as being anticipated by Harrah is not warranted under the provisions of 35 U.S.C. 102.

**XII. Whether Claim 18 is Anticipated
by Berthier Under the Provisions
of 35 U.S.C. 102.**

Berthier does not have a "body frame of box-shaped skeletal structure". As noted above with respect to claim 2, the bottom tray of Berthier is not "box-shaped".

Claim 18 further requires a pair of leg frames with each leg frame being "disposed at an opposite side of said body frame from the other. . . ". In Berthier, the frames 1,2 are disposed on the same side of the bottom tray 4 as the other.

Claim 18 further requires connecting means integrated in said body frame and each leg frame for releasably connecting each leg frame to said body frame. Berthier uses pivots 16 to articulate the lower frame 4 to the front frame 1. There is no disclosure in Berthier that these pivots are integrated in either the tray 4 or the frame 1. Further, the pivots 16 form a permanent connection between the tray 4 and the frame 1. Likewise, the parts 9c are not described as being integrated in the tray 4 and are clearly not integrated in the rear frame 2. Further,

the parts 9c appear to slide within the grooves 15 in the rear frame 2 and do not releasably connect the tray 4 to the rear frame 2.

Claim 18 further requires a "table top". The upper tray 5 in Berthier is not a table top. Further, claim 18 requires the table top to be "releasably connected to and across said leg frames". The upper tray 5 in Berthier is not releasably connected to the frames 1,2 but is permanently connected. Still further, claim 18 requires the table top to be connected "to and across said leg frames". The upper tray 5 in Berthier is located between the frames 1,2 and does not extend across the leg frames, for example, in the manner of a conventional table top.

In view of the above, a rejection of claim 18 as being anticipated by Berthier is not warranted by 35 U.S.C. 102.

**XIII. Whether Claim 18 is Anticipated
by Holtz Under the Provisions of
35 U.S.C. 102.**

Claim 18 is directed to a bar cart comprising "a body frame of box-shaped skeletal structure". As noted above with respect to claim 2, the lower table frame 20 of Holtz is not "box-shaped".

Claim 18 further requires a pair of leg frames with each leg frame being disposed at an opposite side of said body frame from the other. As noted above with respect to claim 1, each leg frame 10,12 of Holtz is on the same side of the table frame 18,20 as the other leg frame.

Claim 18 further requires a table top to be connected to and across the leg frame. The upper table frame 18 of Holtz is not connected across the frame members 10, 12 but is disposed below and within the frame members 10,12.

In view of the above, a rejection of claim 18 as being anticipated by Holtz is not warranted pursuant to the provisions of 35 U.S.C. 102.

**XIV. Whether Claim 18 is Anticipated
by McClellan Under the Provisions
of 35 U.S.C. 102.**

Claim 18 is directed to a bar cart. McClellan is directed to a knock-down table and not a bar cart.

Further, claim 18 requires a "body frame of box-shaped skeletal structure". Fig. 2 as shown, the spaced apart parallel channel members 24 of McClellan do not constitute "a skeletal body frame", particularly since the channel members 24 are not connected to each other.

Claim 18 further requires "a table top releasably connected to and across said leg frames in vertically spaced relation to said body frame". As noted above with respect to claim 1, the table top 20 of McClellan is secured directly by the channel members 24. There is no spacing between the table 20 and the channel members 24.

In view of the above, a rejection of claim 18 as being anticipated by McClellan is not warranted under the provisions of 35 U.S.C. 102.

**XV. Whether Claim 4 is Unpatentable
Over Berthier In View of Carille Under
the Provisions of 35 U.S.C. 103.**

Claim 4 depends from claims 1, 2 and 3 and further requires "a pair of guides on two opposite sides of said body frame to define a recess to receive a cooler".

Carille describes a collapsible cart assembly which has a shelf 40 to support a cooler chest 54. In particular, the chest 54 carries legs 58 to engage in apertures 60 in the shelf 40.

The Examiner alleges that it would be obvious to modify the plate in the bottom tray 6 of Berthier to receive a cooler as in Carille. However, such a modification of Berthier would not result in the claimed structure. Specifically, while the wall plate of Berthier may be provided with apertures, the frame of the bottom tray 6 would not be modified in any fashion.

Clearly, there is no teaching in Carille of modifying the bottom tray of Berthier to have "guides on two opposite sides ... to define a recess with one other side of the body frame ...". Accordingly, a rejection of claim 4 as being

unpatentable over Berthier in view of Carille is not warranted pursuant to the provisions of 35 U.S.C. 103.

**XVI. Whether Claims 4 and 20 are Unpatentable
Over Holtz In View of Carille Under the Provisions
of 35 U.S.C. 103.**

While it may be possible to provide the bottom tray 20 of Holtz with apertures to receive depending legs of a cooler chest as in Carille, such would not result in the claimed structure.

Accordingly, for reasons as expressed above with respect to the rejection of claim 4 as being unpatentable over Berthier in view of Carille, the proposed modification of Holtz would not result in the claimed structure. Accordingly, a rejection of claims 4 and 20 as being unpatentable over Holtz in view of Carille is not warranted pursuant to the provisions of 35 U.S.C. 103.

**XVII. Whether Claims 5, 10 and 19 are Unpatentable
Over Holtz Under the Provisions
of 35 U.S.C. 103.**

Claim 5 requires the body frame to include "a pair of vertically disposed spacers at each corner". The Examiner acknowledges that Holtz is void of such a structure. However, the Examiner takes Official Notice of the equivalents of the claimed plate with slots and the disclosed clips of Holtz for use in the connection art.

The Examiner was invited to point out how *vertically* disposed spacers at the corners of the table frame 20 of Holtz could be used to engage a *vertical* plate in the *angularly disposed* leg of the leg frame 10, 12 of Holtz. However, the Examiner has not done so. It is submitted that one of ordinary skill in the art would not be able to place spacers at the corners of the Holtz tray 20 nor vertical plates on the angularly disposed leg of the leg frame 10, 12 for engagement with

spacers on the tray 20. Accordingly, a rejection of claim 5 as being unpatentable over Holtz is not warranted pursuant to the provisions of 35 U.S.C. 103.

Claim 10 contains recitations similar to claim 5 and is believed to be allowable for similar reasons.

Claim 19 depends from claim 18 and recites structures similar to that recited in claims 5 and 6. For reasons as expressed above with respect to claim 5, a rejection of claim 19 as being unpatentable over Holtz is not warranted pursuant to the provisions of 35 U.S.C. 103.

XVIII. Whether Claims 7,11,13 and 21 are Unpatentable Over Holtz In View of Burnette Under the Provisions of 35 U.S.C. 103.

The Examiner alleges that Burnette has leg frames 4, 5, 6, 7 having outwardly disposed arms 15, 16. Issue has been taken in this respect. As can be seen in Figs. 1 and 2, the hinges 15, 16 of Burnette are inwardly directed.

The Examiner's attention is directed to Fig. 5 of applicant's drawings in which the arms 38, 38' are outwardly directed.

With respect to claim 11, making the hinges 15, 16 of Burnette of different lengths is not relevant to the claimed structure. Applicant's structure allows the table top which is supported on the leg assemblies to project farther on one side than on another. This provides a shelf to one side of the bar cart which permits a person to stand close to the table top without stepping on the bar cart and also permits a bar stool to be placed adjacent to the table top for seating purposes. See the description in page 7, lines 7 to 15. Clearly, there is no such teaching in Burnette or Holtz. Accordingly, a rejection of claim 11 as being unpatentable over Holtz in view of Burnette is not warranted pursuant to the provisions of 35 U.S.C. 103.

XIX. Whether Claims 5, 10, 11, 15 to 17, 19, 21, and 14 are Unpatentable Over McClellan Under the Provisions of 35 U.S.C. 103.

Claim 5 depends from claims 1 and 2 and is believed to be allowable over McClellan for reasons as expressed above. Further, claim 5 requires the body frame of claim 2 to include "a pair of vertically disposed spacers at each corner. . . ." and that each leg frame includes "a vertical plate at each side . . . having a pair of vertically spaced slots receiving a respective pair of spacers . . . to effect a releasable connection. . . .".

The Examiner alleges that it would be obvious to place a pair of vertically disposed spacers at each corner of the channel members 24 of McClellan as well as a vertical plate with slots in each leg of each leg frame.

The Examiner was invited to show how one of ordinary skill in the art would place a pair of vertically disposed spacers at each corner of each channel member 24 to cooperate with a vertical plate of each leg of the leg frames. However, the Examiner has not done so. It is respectfully submitted that one of ordinary skill in the art would not be able to do so.

In view of the above, a rejection of claims 5, 10, 16, 17 and 19 as being unpatentable over McClellan is not warranted pursuant to the provisions of 35 U.S.C. 103.

With respect to claims 11 and 21, there is no teaching in McClellan of outwardly disposed arms on which the table top 20 may rest nor of arms being of different length. Accordingly, a rejection of claims 11 and 21 as being unpatentable over McClellan is not warranted pursuant to the provisions of 35 U.S.C. 103.

Claims 15 and 24 are directed to the specific structure of the body frame of claim 1. In particular, claim 15 recites that the body frame includes "a first pair of parallel vertically disposed pair of rectangular frames ... and a second pair of parallel vertically disposed rectangular frames ...". The channel members 24 of McClellan do not have such frames.

Note is made that the Examiner alleges that it would be obvious to duplicate the pair of channel members 24 in McClellan. This is not understood and clarification was requested as to how or why a second pair of channel

members 24 would be of use in McClellan. However, the Examiner has not provided any clarification.

In view of the above, a rejection of claims 15, 16, and 24 as being unpatentable over McClellan is not warranted pursuant to the provisions of 35 U.S.C. 103.

**XX. Whether Claims 9 and 23 are Unpatentable
Over McClellan In View of Fuller Under the Provisions
of 35 U.S.C. 103.**

Each of claims 9 and 23 requires "a fabric strip disposed peripherally about said leg frames and at least one side of said body frame" as well as being "secured to opposite ends of said fabric strip to hold said strip about said leg frames and said one side of said body frame".

The Examiner alleges that Fuller discloses a hand truck having a fabric strip 40 disposed about a holder 28. Issue has been taken in this respect.

As can be seen in Fig. 8 of Fuller, a cart is provided with a body 4 to which a base wall 40 is secured. A float load holder 28 is rotatably attached to the base wall 40. Fuller has no teaching of a fabric strip. Accordingly, a rejection of claims 9 and 23 as being unpatentable over McClellan in view of Fuller is not warranted pursuant to the provisions of 35 U.S.C. 103.

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Patents**

Washington, DC 20231


Francis C. Hand, Esq. Date

Respectfully submitted,


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APPENDIX

1. A knock-down portable bar cart comprising
a body frame;
a pair of leg frames, each leg frame being releaseably connected to said body frame at an opposite side from the other of said leg frames to support said body frame on a support surface; and
a table top releaseably connected to and across said leg frames in vertically spaced relation to said body frame.
2. A knock-down portable bar cart as set forth in claim 1 wherein said body frame is of rectangular box-shaped skeletal structure.
3. A knock-down portable bar cart as set forth in claim 2 which further comprises a horizontally disposed floor plate removably mounted in said body frame to provide a shelf.
4. A knock-down portable bar cart as set forth in claim 3 which further comprises a pair of guides on two opposite sides of said body frame to define a recess with one other side of said body frame to receive a cooler therein.
5. A knock-down portable bar cart as set forth in claim 2 wherein said body frame includes a pair of vertically disposed spacers at each corner of said body frame and wherein each leg frame includes a vertical plate at each side thereof, each plate having a pair of vertically spaced slots receiving a respective pair of spacers of said body frame to effect a releasable connection between each leg frame and said body frame.
6. A knock-down portable bar cart as set forth in claim 5 which further comprises a pair of wheels on one of said leg frames for rolling on a support surface.
7. A knock-down portable bar cart as set forth in claim 5 wherein each leg frame has a pair of horizontal outwardly disposed arms and said table top rests on said arms.

8. A knock-down portable bar cart as set forth in claim 7 wherein said table top includes a peripheral edge of U-shaped cross-section slidably receiving an end of each arm therein.

9. A knock-down portable bar cart as set forth in claim 1 which further comprises a fabric strip disposed peripherally about said leg frames and at least one side of said body frame and means secured to opposite ends of said fabric strip to hold said strip about said leg frames and said one side of said body frame.

10. A knock-down portable bar cart as set forth in claim 1 wherein said body frame includes a pair of vertically spaced spacers at each corner of said body frame and wherein each leg frame includes a vertical plate at each side thereof, each plate having a pair of vertically spaced slots receiving a respective pair of spacers of said body frame to effect a releasable connection between each leg frame and said body frame.

11. A knock-down portable bar cart as set forth in claim 10 wherein each leg frame has a pair of horizontal outwardly disposed arms with one of said arms being longer than the other arm and said table top rests on said arm.

12. A knock-down portable bar cart as set forth in claim 11 wherein said table top includes a peripheral edge of U-shaped cross-section slidably receiving an end of each arm therein.

13. A knock-down portable bar cart as set forth in claim 1 wherein each leg frame has a pair of horizontal outwardly disposed arms and said table top rests on said arms.

14. A knock-down portable bar cart as set forth in claim 13 wherein said table top includes a peripheral edge of U-shaped cross-section slidably receiving an end of each arm therein.

15. A knock-down portable bar cart as set forth in claim 1 wherein said body frame includes a first pair of parallel vertically disposed pair of rectangular frames defining a pair of sides of said body frame and a second pair of parallel vertically disposed rectangular frames defining a pair of ends of said body frame.

16. A knock-down portable bar cart as set forth in claim 15 which further comprises a pair of vertically spaced spacers secured to and between each pair of adjacent rectangular frames.

17. A knock-down portable bar cart as set forth in claim 16 wherein each leg frame has a vertical plate at each side of said leg frame, each plate having a pair of slots slidably receiving a respective pair of said spacers of said body frame.

18. A bar cart comprising
a body frame of box-shaped skeletal structure;
a pair of leg frames, each leg frame being disposed at an opposite side of said body frame from the other of said leg frames;
connecting means integrated in said body frame and each leg frame for releaseably connecting each leg frame to said body frame; and
a table top releaseably connected to and across said leg frames in vertically spaced relation to said body frame.

19. A bar cart as set forth in claim 18 wherein each said connecting means includes a vertical plate having a pair of vertically spaced slots on one of said leg frames and said body frame and a pair of vertically disposed spacer on the other of one of said leg frames and said body frame, said spacers being slidably received in said slots of said plate.

20. A bar cart as set forth in claim 19 which further comprises a pair of guides on two opposite sides of said body frame to define a recess with one other side of said body frame to receive a cooler therein.

21. A bar cart as set forth in claim 19 wherein each leg frame has a pair of horizontal outwardly disposed arms and said table top rests on said arms.

22. A bar cart as set forth in claim 21 wherein said table top includes a peripheral edge of U-shaped cross-section slidably receiving an end of each arm therein.

23. A bar cart as set forth in claim 19 which further comprises a fabric strip disposed peripherally about said leg frames and at least one side of said